

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

-----X

KELLENE ANN RAY-TOMPKINS,

Plaintiff,

Civil Action No.

5:22-cv-01008-ML

v.

LELAND DUDEK,¹
ACTING COMMISSIONER OF SOCIAL SECURITY,

Defendant.

-----X

**STIPULATED MOTION FOR FINAL JUDGMENT AND AFFIRMANCE
OF THE COMMISSIONER'S FINAL DECISION**

IT IS HEREBY STIPULATED by the parties, through their undersigned attorneys, and with the approval of the Court, that this case shall be reopened for the purpose of entering judgment for Plaintiff.

On January 13, 2023, the Court remanded this case for further administrative proceedings, and retained jurisdiction pursuant to sentence six of 42 U.S.C. § 405(g). *See* ECF No. 9. The parties stipulated to remand this case because there was an issue with the agency producing a certified transcript of the administrative proceedings as required by 42 U.S.C. § 405(g). *See* ECF No. 8. The proceedings on remand have culminated in an October 24, 2023 decision fully favorable to Plaintiff. *See* Attachment #1.

Now that the administrative proceedings have concluded, reopening is necessary. In a sentence-six remand case, the Court retains jurisdiction following the remand. *See Melkonyan v. Sullivan*, 501 U.S. 89, 98 (1991) (District Court retains jurisdiction over Social Security cases remanded under 42 U.S.C. § 405(g), sentence six, and where the final administrative decision is favorable to one party or the other, the Commissioner is to return to Court following completion

¹ Leland Dudek became the Acting Commissioner of Social Security on February 16, 2025. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Leland Dudek should be substituted for Kilolo Kijakazi as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

of the administrative proceedings on remand so that the Court may enter a final judgment or, as in this case, a dismissal); *see also Shalala v. Schaefer*, 509 U.S. 292, 298-300 (1993).

It is therefore appropriate to reopen this case in order to resolve the Court's sentence-six jurisdiction. Upon reopening, the parties stipulate that judgment should be entered for Plaintiff.

Dated: **April 4, 2024**

By: /s/ Justin M. Goldstein

Justin M. Goldstein
ATTORNEY FOR PLAINTIFF
Hiller Comerford Injury & Disability Law
6000 North Bailey Avenue - Suite 1a
Amherst, NY 14226
716-564-3288
Fax: 716-332-1884
Email: jgoldstein@hillercomerford.com

Dated: **April 4, 2024**

JOHN A. SARCONI, III
United States Attorney
ATTORNEY FOR DEFENDANT

By: /s/ Geoffrey M. Peters

Geoffrey M. Peters
Special Assistant United States Attorney
NDNY Bar Roll No. 704027
Office of Program Litigation, Office 2
Office of the General Counsel
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235
(212) 264-1298
Geoffrey.Peters@ssa.gov

IT IS SO ORDERED:



Miroslav Lovric
U.S. Magistrate Judge

Dated: April 7, 2025
Binghamton, NY

CERTIFICATE OF SERVICE

I certify that I served this document upon counsel of record via the Court's ECF system.

/s/ Geoffrey M. Peters

Geoffrey M. Peters
Special Assistant United States Attorney